

EXHIBIT 3

4 No. 5:16-cv-10444
IN RE: FLINT WATER CASES Hon. Judith E. Levy
5 Mag. Mona K. Majzoub

HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF MARVIN GNAGY

VOLUME I

11 Thursday, December 12, 2019

at 9:05 a.m.

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at 9:05 a.

21 REPORTED BY: CABOT A KIRK BMR/CSP-9139

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1 STATE OF MICHIGAN
2 IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE
3 IN RE: FLINT WATER LITIGATION Case No. 17-108646-NO
4 Hon. Richard B. Yuille
5 JENNIFER MASON, CARL ROGERS,
6 II, TERESA SPRINGER, JEFFREY
7 DUSHANE, DEBORAH CULVER,
8 DR. TRISTIN HASSEL, ADAM DILL
9 AND DAVID YEOMAN, on behalf of
themselves and a class of all
others similarly situated,
10 Plaintiffs, Case No. 16-106150-NM
Hon. Richard B. Yuille
11 vs.
12 LOCKWOOD, ANDREWS & NEWNAM, PC,
a Michigan corporation, and
13 LOCKWOOD, ANDREWS & NEWMAN,
INC., a Texas corporation, and
14 LEO A. DALY COMPANY, a Nebraska
corporation, ROWE PROFESSIONAL
SERVICES COMPANY f/k/a ROWE
ENGINEERING, INC., a Michigan
15 corporation, VEOLIA NORTH
AMERICA, LLC, a Delaware
16 limited liability company,
VEOLIA NORTH AMERICAN, INC., a
17 Delaware corporation, VEOLIA
WATER NORTH AMERICA OPERATING
SERVICES, LLC, a Delaware
18 limited liability company
19 and VEOLIA ENVIRONMENT S.A.,
a transnational corporation,
20 Defendants.
21
22
23
24

1 A P P E A R A N C E S

2 - - -

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1 A P P E A R A N C E S (CONT'D)
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3 On behalf of Defendants Veolia Water North America
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5 Veolia North America, Inc.:

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18 ALSO PRESENT:

19 Marc Myers, Videographer

20 Francis X. Ferrara, Veolia

21

22 - - -

23

24

1 not want to consider, and that was looking at
2 ammonia feed to produce chloramination.

3 Q. If you had concluded that treating
4 these problems in the Flint River would cost a
5 lot more than just switching back to Detroit,
6 are you saying you wouldn't have needed to tell
7 the city that?

8 MR. MCELVAINE: Objection.

9 You can answer.

10 A. We gave the city what we perceived
11 would be chemical treatment and solids handling
12 costs for treating the Flint River as well as
13 the KWA or whatever that reservoir water was
14 going to be, at least the data that we could
15 find on what that water quality might be. It
16 did show that the KWA water would be cheaper to
17 treat; however, it also showed that the Flint
18 River water could be treated to provide adequate
19 drinking water to the citizens of Flint.

20 Q. You understood it would cost
21 millions of dollars to implement the changes you
22 recommended, right?

23 A. I'm aware there would be some
24 money that would have to be spent, yes. I'm

1 not -- I don't know how much. We didn't
2 evaluate that.

3 Q. And you didn't evaluate the
4 relative costs of switching to Detroit versus
5 staying in Flint and implementing your changes,
6 did you?

7 A. No, we did not.

8 Q. You did not implement -- you
9 didn't -- sorry.

10 You did not evaluate the relative
11 effectiveness of staying with Detroit versus
12 implementing some or all of the changes you
13 recommended, did you?

14 MR. MCELVAINE: Objection.

15 You can answer.

16 A. No, we didn't evaluate that.

17 Q. You knew from the get-go that at
18 least some people from --

19 A. Excuse me.

20 Q. You knew that some people from the
21 city didn't want to address going back to
22 Detroit, right?

23 MR. MCELVAINE: Hold on a second.

24 Okay. You can answer.

1 A. The people that we had
2 communications with indicated that that was
3 their choice, yes.

4 Q. And who was that?

5 A. That would have been -- well, in
6 the kickoff meeting, Howard Croft specifically
7 told us that.

8 Q. Anyone else?

9 A. Jerry Ambrose told us that.

10 Q. And they told you it would be too
11 expensive to go back to Detroit?

12 A. I don't know. We were told that
13 it would -- it was costing \$12 million a year
14 more than using their own treatment plant, I
15 believe were the figures. I don't know for
16 sure.

17 Q. Did you believe you had any
18 obligation to advise the city if,
19 notwithstanding the cost concerns that these
20 individuals had expressed, you thought the best
21 technical solution was to go back to Detroit?

22 MR. MCELVAINE: Objection.

23 You can answer.

24 A. Again, I can't even say it's the

1 best technical solution. It is one alternative.
2 It was taken off the table by the city. We
3 didn't evaluate it any further. We looked at
4 what it would take to treat the Flint River
5 water to meet the THM conditions and to mitigate
6 red water occurrences.

7 Q. But your client is the city,
8 right? It's not these individuals?

9 A. That's correct.

10 Q. So if you concluded that going
11 back to Detroit was the best technical solution,
12 you would have needed to tell the city that,
13 wouldn't you?

14 A. We told --

15 MR. MCELVAINE: Objection.

16 You can answer.

17 A. We told the officials for the city
18 that that was a possibility.

19 Q. So you did tell the officials it
20 was a possibility to go back to Detroit?

21 A. I told them it was one
22 alternative. I stated that the first day on
23 site. I also told Mr. Ambrose, before the
24 public meeting, that that was an alternative.

1 remember at least a statement that that was
2 being done, yes.

3 Q. Okay. So you recall that Warren
4 Green may have alluded to it in his
5 conversations with you?

6 A. Yes.

7 Q. Is Raftelis Financial a company
8 that you're familiar with?

9 A. I am not.

10 Q. Yesterday in your testimony you
11 indicated that you learned since you left Flint
12 that the city was aware of lead results in early
13 2015 that it did not share with you and Veolia,
14 correct?

15 A. That's correct.

16 Q. And in your testimony yesterday,
17 you referenced a test result from the Walters'
18 residence.

19 Do you remember that?

20 A. I do.

21 Q. Were there other test results that
22 you believe the city was aware of in early 2015
23 that it did not share with you and Veolia?

24 A. I can't recall with the

1 information that I have looked at recently
2 whether there were other sites within the city
3 that U.S. EPA was investigating or not. I do
4 know from other presentations about this event,
5 that there were lots of lead and copper samples
6 taken throughout the city that were elevated.

7 Q. And it's your belief that the city
8 was withholding that information?

9 A. I think they deliberately withheld
10 it from us, yes.

11 Q. When you saw the test results from
12 U of M-Flint, you specifically asked the city
13 for their lead and copper test results, correct?

14 A. I testified to that effect, that
15 we asked for lead and copper test results at
16 some point, yes.

17 Q. Let's turn to Number 12. Exhibit
18 Number 12 is Mr. Gnagy's notes from February 10,
19 2015. And the page ending 100, there's a couple
20 slash marks, and then it says "Plant tour."

21 Do you see that?

22 A. I do see that, yes.

23 Q. So is it true that the -- on
24 February 10, there was initially a meeting, and